



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

Joseph W. Reardon
Assistant Commissioner
for Consumer Protection

Douglas Meckes, DVM
State Veterinarian

November 13, 2019

Colleen Sowers
Owner
Peanut's Place Small Breed Rescue
6309 Highview Road
Mathews, North Carolina 28104

Notice of Warning

Re: Violation of NC General Statute ("N.C.G.S.") § 19A-27

AWS-WL-2019-UNL-3

Unlicensed Pet Shop: Peanut's Place Small Breed Rescue

Dear Ms. Sowers:

The Animal Welfare Section ("AWS") of the North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") opened an investigation into the potential operation of an unlicensed pet shop at the address above after receiving a complaint concerning the care of the animals. Under the North Carolina Animal Welfare Act "[n]o person shall operate a pet shop unless a license to operate such establishment shall have been granted by the Director" of the AWS. N.C.G.S. § 19A-27.

On November 4, 2019, Animal Health Technician Jay Blatche ("Inspector Blatche") attempted to conduct a site visit to discuss the licensing of the facility at 6309 Highview Road, Mathews, North Carolina 28104 as a pet shop. You refused to cooperate with Inspector Blatche for this discussion and you refused to allow Inspector Blatche access to view the facility.

A facility operating as a pet shop, even if operated at a residence, is required to be licensed. Based on the information in the complaint and information on the Peanut's Place website, this facility is "... acquir[ing] for the purposes of resale animals bred by others ... and that sells ... or offers to sell such animals ... to the general public at retail or wholesale." These actions constitute operation as a pet shop. Labeling a sale price as a "reasonable fee for adoption" does not absolve the facility from the licensing requirement.

As you are operating a pet shop, you must submit the completed pet shop licensing application immediately so that AWS can initiate the licensing process. A copy of the application form can be found on the AWS website at the following link:

http://www.ncagr.gov/vet/aws/documents/PetShop_Auction_App_03-15-2019.pdf.

Furthermore, please be aware that a facility operating as an animal shelter, regardless of location, is required to obtain a certificate of registration from the AWS. A search of the NC Secretary of State database does not show registration of Peanut's Place Small Breed Rescue as a non-profit organization. Despite this, if your claim is that this facility is operating as an animal shelter rather than a pet store, then the facility must be registered as an animal shelter. To operate as an animal shelter, you must submit the completed animal shelter registration application immediately so that AWS can initiate the registration process. If you need a copy of the application form, it can be found on the AWS website at the following link: <http://www.ncagr.gov/vet/aws/documents/SCANNEDApplicationFormShelters2016.pdf>.

Until this facility has a valid AWS pet shop license or animal shelter certificate of registration, you may not operate. Therefore, you are directed to cease operating as a pet shop and/or an animal shelter and find suitable accommodations for any animals currently in the care and custody of this facility, until you have obtained a license or certificate of registration.

Failure to abide by this directive shall be considered to be a willful disregard or violation of the North Carolina Animal Welfare Act and the rules issued pursuant thereto. Under N.C.G.S. § 19A-40, violation of the North Carolina Animal Welfare Act or the rules issued pursuant thereto may result in the assessment of a civil penalty of up to \$5,000.00 per violation. In addition, pursuant to N.C.G.S. § 19A-33 operation of a pet shop without a currently valid license shall constitute a Class 3 misdemeanor.

Your immediate attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS
Director of Animal Welfare Section
Veterinary Division

cc: Dr. R. Douglas Meckes, State Veterinarian
Joe Reardon, Assistant Commissioner, NCDA&CS
Tina Hlabse, General Counsel, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

Appendix

REFERENCED STATUTES AND REGULATIONS

§ 19A-23. Definitions.

For the purposes of this Article, the following terms, when used in the Article or the rules or orders made pursuant thereto, shall be construed respectively to mean:

- (5) "Animal shelter" means a facility which is used to house or contain seized, stray, homeless, quarantined, abandoned or unwanted animals and which is under contract with, owned, operated, or maintained by a county, city, town, or other municipality, or by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, rehabilitation, or humane treatment of animals.
- (12) "Pet shop" means a person or establishment that acquires for the purposes of resale animals bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals to the general public at retail or wholesale.

§ 19A-25. Employees; investigations; right of entry.

For the enforcement of the provisions of this Article, the Director is authorized, subject to the approval of the Commissioner to appoint employees as are necessary in order to carry out and enforce the provisions of this Article, and to assign them interchangeably with other employees of the Animal Health Division. The Director shall cause the investigation of all reports of violations of the provisions of this Article, and the rules adopted pursuant to the provisions hereof; provided further, that if any person shall deny the Director or his representative admittance to his property, either person shall be entitled to secure from any superior court judge a court order granting such admittance. (1977, 2nd Sess., c. 1217, s. 6; 1987, c. 827, s. 63.)

§ 19A-26. Certificate of registration required for animal shelter.

No person shall operate an animal shelter unless a certificate of registration for such animal shelter shall have been granted by the Director. Application for such certificate shall be made in the manner provided by the Director. No fee shall be required for such application or certificate. Certificates of registration shall be valid for a period of one year or until suspended or revoked and may be renewed for like periods upon application in the manner provided. (1977, 2nd Sess., c. 1217, s. 7; 1987, c. 827, s. 64.)

§ 19A-27. License required for operation of pet shop.

No person shall operate a pet shop unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license shall be for the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year. (1977, 2nd Sess., c. 1217, s. 8; 1987, c. 827, s. 65; 1989, c. 544, s. 17; 2011-145, s. 31.5(a).)

§ 19A-33. Penalty for operation of pet shop, kennel or auction without license.

Operation of a pet shop, kennel, or public auction without a currently valid license shall constitute a Class 3 misdemeanor subject only to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each day of operation shall constitute a separate offense. (1977, 2nd Sess., c. 1217, s. 14; 1993, c. 539, s. 315; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s. 6; 1998-215, s. 3.)